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EXAMINER

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33M1

ART UNIT	PAPER NUMBER
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3308

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DATE MAILED: 03/31/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 1-25-93 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892. 2. ☐ Notice re Patent Drawing, PTO-848.
3. ☐ Notice of Art Cited by Applicant, PTO-1449. 4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474. 6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-72 are pending in the application.

Of the above, claims 1-47 AND 65-72 are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☒ Claims 48-49 AND 52-54 are allowed.

4. ☒ Claims 50-51 AND 55-64 are rejected.

5. ☐ Claims _____ are objected to.

- g. ☐ Claims _____ are subject to restriction or election requirement.

- 7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.**

0. ☐ Formal drawings are required in response to this Office action.

6. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved, ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1835 C.D. 11; 453 O.G. 213.

- 14 ☐ Other

EXAMINER'S ACTION

Art Unit 3308

Claims 1-47 and 65-72 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in Paper No. 4.

The disclosure is objected to because of the following informalities:

The use of the trademarks indicated below has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Many trademarks or tradenames are cited in the application. They are mentioned throughout pages 13-16. Tradenames such as "Silastic" should be capitalized to --SILASTIC--.

At page 4, first paragraph, a U.S. application is mentioned. It is unclear whether this is a pending application. Co-pending applications are cited in the specification are not proper citations of prior art. A prior art must be a patent or a printed publication. See 35 USC 301. Applicant is advised to remove the citation of the application.

Both the specification and the drawings are defective for the following reasons. First, the figures to the drawings appear to having missing item numbers. There are lines indicating

Art Unit 3308

certain parts of the figures, but no item numbers are shown. See figures 3a to 3i for example. Figures 7a to 7c appears to have the same problem. Second, a brief description of the figures are presented in the specification, but no detailed description are given in the specification for certain figures. Such as the case for figures 3a-3i and 7a-7c. There are numbers to these figures and arrow shown in some of these figures without any explanation to them in the specification. Applicant must clearly describe the representation of the item numbers and at least briefly state the significance of every figures individually toward the Applicant's invention.

Finally, the drawings are objected to for the following reason in connection to claims 52-54.

The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sidewall, the top and the bottom of the cartridge, as in the claim language of claims 52-54, must be shown or the feature cancelled from the claim. No new matter should be entered. Examiner recommends Applicant to set an item number for these parts to the cartridge of Applicant's apparatus for the figures. This will make it clear as to what the features in claims 42-54 represent.

Appropriate correction is required.

Claims 48-49 and 52-54 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 48, at line 4, "the lumen" has no antecedent support. Examiner suggests inserting at line 2 after "cannula" but before the comma, -- having a lumen--. At lines 9-10, "a longitudinal slot extending radially" is confusing. The slot of the apparatus extends longitudinally instead of radially. Examiner suggests deleting "radially from" at line 10 and inserting in its place --in a direction parallel to a longitudinal axis of--. At line 10, "the surface" has no antecedent support. Examiner suggests deleting "the" and inserting --a-- in its place. At line 11, "said elongated slot" has no antecedent support. Examiner suggests deleting "a longitudinal" at line 9 and inserting --an elongated-- in its place.

With respect to claim 49, "said body" at line 3 is indefinite. Examiner suggests inserting --elongated-- after "said".

With respect to claim 54, "the interior" at line 3 has no antecedent support. Examiner suggests deleting "the" and inserting --an-- in its place.

Art Unit 3308

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kensley et al. discloses plug devices comprising of thin sheets that may be rolled up and inserted into the body.

Blake and Huffman disclose tubular apparatus having slits.

Claims 50-51 and 55-64 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Examiner recommends Applicant to correct the 112 problems indicated before for the objected claims stated below.

Claims 48-49 and 52-54 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

Applicant is reminded that in order to place the application in condition of allowance, the indefiniteness of the claims must be corrected as suggested above, the specification changes including changes in the drawings must overcome the points of objection as indicated above and the non-elected claims must be cancelled.

Serial No. 07/886,689

-6-

Art Unit 3308

Any inquiry concerning this communication should be directed
to D. Nguyen at telephone number (703) 308-0858.

D. Nguyen
D. Nguyen
March 22, 1993

R. L. Green
RANDALL L. GREEN
SPE
ART UNIT 338